***THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA**

+Writ Petition No. 30008 of 1997

%Dated 13.04.2007

1.Ch.Venkaiah, S/o Appaiah (died by L.Rs)
and 2 others

… Petitioners.

VERSUS

$ The Government of A.P represented by Principal
Secretary to Government, Revenue (U.C.III)
Department, Secretariat Buildings, Hyderabad
and 2 others

… Respondents.

! Counsel for Petitioners: Sri N.V.Suryanarayana Murthy,
learned Senior Counsel appearing
on behalf of Sri P.Suresh, learned
Counsel for the petitioners.

^Counsel for Respondent: G.P.for Revenue

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>HEAD NOTE:

? Cases referred

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO :30008 of 1997

Dated: 13.04.2007

Between:
1.Ch.Venkaiah, S/o Appaiah (died by L.Rs)
and 2 others

..... PETITIONERS

AND

1.The Government of A.P. represented by Principal
Secretary to Government, Revenue (U.C.III) Department.
Secretariat Buildings, Hyderabad and 2 others

…RESPONDENTS

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO. 30008 of 1997

ORDER:

This writ petition is filed seeking quashing of the MemoNo.883/UC.III/2/86-32 dated 15.09.1997 issued by the 1st respondent.

Brief facts of the case are that the 1st petitioner-Ch.Venkaiah filed a declaration under Section 6 (1) of the Urban Land (Ceiling and Regulation) Act 1976 (for short 'the Act') declaring that

(1) he owns 474.75 square meters with a dwelling unit

(2) An extent of 138.17 square meters covered by a motor garage situated in municipal ward No.26 in NTS No.792/2, Suryaraopet, Vijayawada and in municipal ward No.26, N.T.S.No.788, Suryaraopet, Vijayawada respectively

(3) 414.72 square meters of vacant land situate in ward No.27 of Machavaram village within the Vijayawada Urban Agglomeration and

(4) An extent of 1672.26 square meters covered by S.No.485 bearing plot Nos.5, 6, 27 and 28 of block No.'G' XX situated at Gunadala, popularly known as 'Jawahar Autonagar Industrial Estate, which was allotted and subsequently sold by the A.P. Industrial Infrastructure Corporation to the petitioner.

The 1st petitioner also filed an application under Section 20 of the Act seeking exemption from ceiling of the land to an extent of 1672.26 square meters covered by S.No.485 bearing plot Nos.5, 6, 27 and 28 of block No.'G' XX situated at Gunadala, popularly known as 'Jawahar Autonagar Industrial Estate. The 2nd respondent issued a statement under Section 8 (4) of the Act declaring that the 1st petitioner should surrender the properties where the residential building was located as also the motor car shed besides vacant land at Machavaram and balance of the land in Jawahar Autonagar Industrial Estate after

retaining 1500 sq. metres. On 15.10.1977 the 1st petitioner filed objections to the order of the 2nd respondent contending that if his application for exemption was accepted, he need not surrender any land. The 2nd respondent issued a final statement under Section 9 of the Act on 07.09.1997 in terms of his draft declaration. Aggrieved by the same, the 1st petitioner filed an appeal before the Commissioner, Urban Land Ceiling, Hyderabad and the same was dismissed. In the meantime, the 1st petitioner received a notice from the authorities on 14.11.1984 stating that a notice under Section 10 (3) of the Act has been published on 09.08.1984 in the A.P. Gazette No.189 declaring that he was holding excess land which was liable to be surrendered and vests with the Government with effect from 01.09.1984.

The 1st petitioner filed W.P.No.15727 of 1984 challenging the dismissal of the appeal and also the subsequent notifications issued thereafter. The petitioner was prepared to surrender the surplus land in Industrial Estate, if the exemption was not granted under Section 20 of the Act. With that statement, the writ petition was allowed by order dated 23.12.1987. However, his application for exemption was dismissed by the 1st respondent in its Memo NO.21/UC.III/84-1 dated 14.05.1984. The rejection was challenged by the 1st petitioner in W.P.No.16175 of 1984 which was disposed on 24.12.1987 permitting the 1st petitioner to submit a fresh representation within two months for exemption and in case the representation was not accepted, the 1st petitioner shall surrender the land. Then the 1st petitioner made a representation for exemption of 1200 square meters in R.S.No.485 of Gunadala village to respondents 1 and 3 herein on 22.02.1988 and the same was rejected by the 1st respondent through Memo No.883/UC.III/2/86-32 on 15.09.1997 directing the 2nd respondent herein to initiate action for taking over the surplus land under the provisions of the Act. Hence this writ petition.

A counter-affidavit has been filed by respondents 1 and 2 denying the allegations made by the petitioners and justifying their action in rejecting the exemption application of the 1st petitioner.

Heard both sides.

The learned Senior Counsel appearing for the petitioners, Sri N.V.Suryanarayana Murthy, raised many contentions and the main contention is that the rejection of exemption application of the 1st petitioner-Ch.Venkiaiah is wholly unwarranted as at no point of time the 1st petitioner has violated any of the conditions of either the agreement of sale or the registered sale deed. The learned Counsel has drawn my attention to clause 9 of the registered sale deed dated 29.06.1993 executed in favour of the 1st petitioner by the Industrial Infrastructure Corporation Limited and strenuously contended that the 1st petitioner is at liberty to enjoy the rents and profits received therefrom without any interruption, disturbance, claim or demands whatsoever. According to the learned Senior Counsel, if the 1st petitioner violated conditions of the sale deed i.e., leasing out a portion of the land to 'Vaartha Publications', it would be for the vendor i.e., A.P. Industrial Infrastructure Corporation to resume the land back from the 1st petitioner.

Learned Government Pleader for Revenue while reiterating the contentions put forth in the counter-affidavit stated that the 1st petitioner filed an application for grant of exemption having regard to the fact that he owns 2700 square meters in Vijawada Urban Agglomeration and the authorities, on consideration and also on perusing the report furnished by the Special Officer and competent authority, Urban Land Ceilings, Vijayawada, refused exemption solely on the ground that the land was allowed to be used by Vartha Publications.

Having heard both the learned Counsel at length and also after perusing the material available on record, this Court is of the view that the 1st petitioner-Ch.Venkaiah had committed a mistake in filing an application seeking exemption Under Section 20 (1) (a) of the Act. In my considered view the said application is wholly unwarranted. The 1st petitioner-Ch.Venkaiah owns only an extent of 1,027.64 square meters of land in various survey numbers and by virtue of an agreement of sale in favour of M/s Ch.Venkayya Body Building Works represented by its proprietor Chanumolu Venkayya, he was inducted into possession of another extent of 1672.26 square meters in the year 1977 and thus the 1st petitioner-Ch.Venkayya owns an extent of 2,700 square meters. Thereafter a regular sale deed was executed in the year 1993 in so far as the extent of 1672.26 square meters of land is concerned. As the vendor in so far as the said extent of land is concerned is a Government Company viz., Andhra Pradesh Industrial Infrastructure Corporation Limited, it was exempted under the provisions of the Urban Land (Ceiling and Regulations) Act 1976. In the sale deed itself it is recited that the said land of 1672.26 square meters is exempted from the provisions of the Act. However, the 1st petitioner-Ch.Venkaiah may be inadvertently or by way of abundant caution has filed a declaration under Section 6 (1) of the Act and further sought for exemption under Section 20 (1) (a) of the Act. The said declaration as well as the application seeking exemption was filed by the 1st petitioner-Ch.Venkaiah in his individual capacity. This Court is of the view that there was no need for the 1st petitioner-Ch.Venkaiah to file an application seeking exemption, instead he could have filed a declaration under Section 6 (1) of the Act, The actual extent of land owned by the 1st petitioner-Ch.Venkaiah is 1,027.64 square meters and the same is within the Ceiling limit, since any individual can own land up to 1500 square meters in place like Vijayawada which is under “C” category. The extent of 1672.26 square meters of land sold by the A.P. Industrial Infrastructure Corporation was not in favour of the 1st petitioner-Ch.Venkaiah, but was in favour of M/s Ch.Venkayya Body Building Works represented by its proprietor Ch.Venkaiah, which is altogether a different entity. However, on a mistaken impression the 1st petitioner-Ch.Venkaiah clubbed both the extents of land, i.e., 1027.64 square meters and 1672.26 square meters, and filed a declaration under Section 6 (1) of the Act and as the said land is more than the ceiling limit, he filed an application under Section 20 (1) (a) of the Act seeking exemption, which was rejected by the authorities. In fact, the said application seeking exemption has created all this confusion. As already stated, the 1st petitioner-Ch.Venkaiah is different from that of M/s Ch.Venkayya Body Building Works and there was no necessity for the 1st petitioner-Ch.Venkaiah to surrender any land on the

ground that he owns more than 1500 square meters of land.

In the light of the above discussion, this Court is of the view that the very application seeking exemption under Section 20 (1) (a) of the Act filed by the 1st petitioner-Ch.Venkaiah is unwarranted and the consequential rejection order passed by the 1st respondent is wholly misconceived.

The writ petition is accordingly allowed and the impugned Memo No.883/UC.III/2/86-32 dated 15.09.1997 issued by the 1st respondent is quashed. No costs.

KRISHNA TAMADA, J)

13-04-2007
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